

Department of Energy

§ 490.604

to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC 20585 or such other address as DOE publishes in the FEDERAL REGISTER.

§ 490.507 Credit activity reporting requirements.

(a) A covered person or fleet applying for allocation of alternative fueled vehicle credits must submit a credit activity report by the December 31 after the close of a model year to the Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, EE-33, 1000 Independence Ave., SW., Washington, DC 20585 or other such address as DOE may publish in the FEDERAL REGISTER.

(b) This report must include the following information:

(1) Number of alternative fueled vehicle credits requested for:

(i) alternative fueled vehicles acquired in excess of required acquisition number; and

(ii) alternative fueled vehicles acquired in model years before the first model year the fleet or covered person is required to acquire vehicles by this part.

(2) Purchase of alternative fueled vehicle credits:

(i) Credit source; and

(ii) Date of purchase;

(3) Sale of alternative fueled vehicle credits:

(i) Credit purchaser; and

(ii) Date of sale.

Subpart G—Investigations and Enforcement

§ 490.600 Purpose and scope.

This subpart sets forth the rules applicable to investigations under titles III, IV, V, and VI of the Act and to enforcement of sections 501, 503(b), 507, 508, or 514 of the Act, or any regulation issued under such sections.

[72 FR 12964, Mar.20, 2007]

§ 490.601 Powers of the Secretary.

For the purpose of carrying out titles III, IV, V, and VI of the Act, DOE may hold such hearings, take such testimony, sit and act at such times and

places, administer such oaths, and require by subpoena the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memoranda, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

§ 490.602 Special orders.

(a) DOE may require by general or special orders that any person—

(1) File, in such form as DOE may prescribe, reports or answers in writing to specific questions relating to any function of DOE under this part; and

(2) Provide DOE access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of DOE under this part.

(b) File under oath any reports and answers provided under this section or as otherwise prescribed by DOE, and file such reports and answers with DOE within such reasonable time and at such place as DOE may prescribe.

§ 490.603 Prohibited acts.

It is unlawful for any person to violate any provision of sections 501, 503(b), 507, 514 of the Act, or any regulations issued under such sections.

[72 FR 12964, Mar.20, 2007]

§ 490.604 Penalties and Fines.

(a) *Civil Penalties.* Whoever violates § 490.603 of this part shall be subject to a civil penalty of not more than \$5,500 for each violation.

(b) *Willful violations.* Whoever willfully violates section 490.603 of this part shall pay a criminal fine of not more than \$10,000 for each violation.

(c) *Repeated violations.* Any person who knowingly and willfully violates section 490.603 of this part, after having been subjected to a civil penalty for a prior violation of section 490.603 shall pay a criminal fine of not more than \$50,000 for each violation.

[61 FR 10653, Mar. 14, 1996, as amended at 62 FR 46183, Sept. 2, 1997]

EFFECTIVE DATE NOTE: At 74 FR 66032, Dec. 14, 2009, § 490.604 was amended by revising paragraph (a), effective Jan. 13, 2010. For the

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convenience of the user, the revised text is set forth as follows:

§ 490.604 Penalties and fines.

(a) *Civil Penalties.* Whoever violates § 490.603 of this part shall be subject to a civil penalty of not more than \$8,000 for each violation.

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§ 490.605 Statement of enforcement policy.

DOE may agree not to commence an enforcement proceeding, or may agree to settle an enforcement proceeding, if the person agrees to come into compliance in a manner satisfactory to DOE. DOE normally will not commence an enforcement action against a person subject to the acquisition requirements of this part without giving that person notice of its intent to enforce 90 days before the beginning of an enforcement proceeding.

§ 490.606 Proposed assessments and orders.

DOE may issue a proposed assessment of, and order to pay, a civil penalty in a written statement setting forth supporting findings of violation of the Act or a relevant regulation of this part. The proposed assessment and order shall be served on the person named therein by certified mail, return-receipt requested, and shall become final for DOE if not timely appealed pursuant to section 490.607 of this part.

§ 490.607 Appeals.

(a) In order to exhaust administrative remedies, on or before 30 days from the date of issuance of a proposed assessment and order to pay, a person must appeal a proposed assessment and order to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

(b) Proceedings in the Office of Hearings and Appeals shall be subject to subpart F of 10 CFR part 1003 except that—

(1) Appellant shall have the ultimate burden of persuasion;

(2) Appellant shall have right to a trial-type hearing on contested issues of fact only if the hearing officer concludes that cross examination will ma-

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terially assist in determining facts in addition to evidence available in documentary form; and

(3) The Office of Hearings and Appeals may issue such orders as it may deem appropriate on all other procedural matters.

(c) The determination of the Office of Hearings and Appeals shall be final for DOE.

Subpart H—Biodiesel Fuel Use Credit

SOURCE: 64 FR 27174, May 19, 1999, unless otherwise noted.

§ 490.701 Purpose and scope.

(a) This subpart implements provisions of the Energy Conservation Reauthorization Act of 1998 (Pub. L. 105–388) that require, subject to some limitations, the allocation of credit to a fleet or covered person under Titles III and V of the Energy Policy Act of 1992 for the purchase of a qualifying volume of the biodiesel component of a fuel containing at least 20 percent biodiesel by volume.

(b) Fleets and covered persons may use these credits to meet, in part, their mandated alternative fueled vehicle acquisition requirements.

§ 490.702 Definitions.

In addition to the definitions found in § 490.2, the following definitions apply to this subpart—

Biodiesel means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

Qualifying volume means—

(1) 450 gallons; or

(2) If DOE determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.

§ 490.703 Biodiesel fuel use credit allocation.

(a) DOE shall allocate to a fleet or covered person one credit for each